

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

TWIN AMERICA, LLC, et al.,

Defendants.

Civil Action No. 12-cv-8989 (ALC) (GWG)

ECF Case

DEFENDANTS' MOTION FOR LEAVE TO FILE UNDER SEAL

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Ryan M. Decker, dated June 30, 2014, Defendants Twin America, LLC, Coach USA, Inc., International Bus Services, Inc., CitySights LLC, and City Sights Twin, LLC ("Defendants") hereby move this Court before the Honorable Andrew L. Carter, Jr., at the United States Courthouse, 40 Foley Square, Courtroom 1306, as soon as counsel may be heard, for an Order granting leave to file the following documents and portions of documents under seal pursuant to the Stipulated Protective Order (Dkt. No. 29):

1. Portions of Defendants' Local Rule 56.1 Statement of Material Facts that refer to material that non-parties and Defendants have designated Confidential or Highly Confidential;
2. Portions of Defendants' Memorandum of Law in Support of Defendants' Motion for Summary Judgment that refer to material that non-parties and Defendants have designated Confidential or Highly Confidential;
3. Portions of the Declaration of Amanda L. Fretto in Support of Defendants' Motion for Summary Judgment that refer to material that non-parties and Defendants have designated Confidential or Highly Confidential;

4. Exhibits 13, 18, 22, 30, 32, 34 and 54 to the Declaration of Amanda L. Fretto in Support of Defendants' Motion for Summary Judgment;
5. Portions of Exhibits 3-5, 7, 8, 12, 17, 21, 51, 57 and 65 to the Declaration of Amanda L. Fretto in Support of Defendants' Motion for Summary Judgment;
6. Portions of the Memorandum of Law in Support of Defendants' Motion to Exclude Certain Expert Testimony of Dr. Russell Pittman that refer to material that non-parties and Defendants have designated Confidential or Highly Confidential;
7. Exhibit 8 to the Declaration of Andrew D. Lazerow in Support of Defendants' *Daubert* Motion to Exclude Certain Expert Testimony of Dr. Russell Pittman;
8. Portions of Exhibits 2 and 14 to the Declaration of Andrew D. Lazerow in Support of Defendants' *Daubert* Motion to Exclude Certain Expert Testimony of Dr. Russell Pittman that refer to material that non-parties and Defendants have designated Confidential or Highly Confidential;
9. Portions of the Memorandum of Law in Support of Defendants' *Daubert* Motion to Exclude the Testimony of Guy Ben-Ishai that refer to material that non-parties and Defendants have designated Confidential or Highly Confidential;
10. Exhibits 4 and 8-12 to the Declaration of Andrew D. Lazerow in Support of Defendants' *Daubert* Motion to Exclude the Testimony of Guy Ben-Ishai;
11. Portions of Exhibits 3, 5, 6 and 13 to the Declaration of Andrew D. Lazerow in Support of Defendants' *Daubert* Motion to Exclude the Testimony of Guy Ben-Ishai that refer to material that non-parties and Defendants have designated Confidential or Highly Confidential;
12. Portions of the Memorandum of Law in Support of Defendants' *Daubert* Motion to

Exclude the Testimony of Sumanta Ray that refer to material that non-parties and Defendants have designated Confidential or Highly Confidential;

13. Exhibits 5-9 to the Declaration of Andrew D. Lazerow in Support of Defendants' *Daubert* Motion to Exclude the Testimony of Sumanta Ray; and

14. Portions of Exhibits 3 and 10 to the Declaration of Andrew D. Lazerow in Support of Defendants' *Daubert* Motion to Exclude the Testimony of Sumanta Ray that refer to material that non-parties and Defendants have designated Confidential or Highly Confidential.

All of the above-referenced material has been designated Confidential or Highly Confidential by non-parties or Defendants in this case pursuant to the Stipulated Protective Order (Dkt. No. 29).

Pursuant to the Order and Stipulation Concerning the Filing of Summary Judgment and *Daubert* Motions (Dkt. No. 70), Defendants have served upon the Court unredacted versions of Defendants' Motion for Summary Judgment and *Daubert* Motions and all supporting declarations and exhibits.

After conferring in good faith with Defendants, Plaintiffs have agreed with Defendants on the majority of Defendants' sealing proposals. Plaintiffs do not consent, however, to Defendants' sealing proposals for the following materials: (a) Exhibits 4, 51, and 54 to the Declaration of Amanda L. Fretto in Support of Defendants' Motion for Summary Judgment; (b) Exhibit 14 to the Declaration of Andrew D. Lazerow in Support of Defendants' *Daubert* Motion to Exclude Certain Expert Testimony of Dr. Russell Pittman; and (c) ¶ 55 of the Declaration of Amanda L. Fretto in Support of Defendants' Motion for Summary Judgment.

The parties are still in the process of negotiating the proposed redactions to the following documents:

1. Exhibits 55, 56, 58 and 59 to the Declaration of Amanda L. Fretto in Support of Defendants' Motion for Summary Judgment;
2. Exhibits 1 and 3 to the Declaration of Andrew D. Lazerow in Support of Defendants' *Daubert* Motion to Exclude Certain Expert Testimony of Dr. Russell Pittman;
3. Exhibits 1 and 2 to the Declaration of Andrew D. Lazerow in Support of Defendants' *Daubert* Motion to Exclude the Testimony of Guy Ben-Ishai; and
4. Exhibits 1 and 2 to the Declaration of Andrew D. Lazerow in Support of Defendants' *Daubert* Motion to Exclude the Testimony of Sumanta Ray.

The parties will submit proposed redactions for these documents to the Court once those negotiations have concluded.

Dated: June 30, 2014

Respectfully submitted,

/s/ Michael P. A. Cohen

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*For Defendants Coach USA, Inc. and International
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of Defendants' Motion for Leave to File under Seal to be served via the Court's ECF System upon the following Parties:

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Dated: June 30, 2014

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